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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NATIONAL LAWYERS' GUILD SAN
FRANCISCO CHAPTER, et al.,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, et al.,

Defendants.

No. C 08-5137 RS

**JOINT STATUS REPORT AND
STIPULATION TO STAY
PROCEEDINGS; AND [~~PROPOSED~~]
ORDER**

WHEREAS, in an effort to narrow the issues before the Court,

1. The parties have entered into a series of stipulations to stay proceedings since April 24, 2009, to allow Defendants to conduct secondary searches and process potentially responsive records, and to allow the parties to confer in an effort to resolve Plaintiffs' claims without the Court's intervention. On October 30, 2009, as a result of those negotiations, Plaintiffs stipulated that they did not contest the adequacy of the searches performed by Defendants DHS, DHS-OIG, or CIS, or the propriety of the withholdings made by DHS-OIG; accordingly, pursuant to Rule 41(a)(1)(A)(ii), the parties filed a stipulation of dismissal of this action with prejudice with respect

1 to those Defendants. Negotiations continued with respect to the remaining Defendants: CBP,
2 EOIR, and ICE. Most recently, on February 3, 2011, the Court approved the parties' stipulations
3 (a) to further stay proceedings through and including March 31, 2011, and (b) to submit a joint
4 report advising the Court on the status of negotiations and processing, and/or a stipulation proposing
5 a schedule to govern further proceedings, no later than March 31, 2011; and

6 2. EOIR has provided Plaintiffs with a letter describing the scope of its search and a
7 preliminary, partial Vaughn index explaining the bases for its withholdings. In response, Plaintiffs
8 have stipulated that they do not contest either the adequacy of the search performed by EOIR, or
9 the propriety of the withholdings made by EOIR; and

10 3. ICE has provided Plaintiffs with a letter describing the scope of its search and a
11 preliminary, partial Vaughn index explaining the bases for its withholdings. In response, Plaintiffs
12 have stipulated that they do not contest either the adequacy of the search performed by ICE, or
13 the propriety of the withholdings made by ICE; and

14 4. CBP has provided Plaintiffs with a letter describing the scope of its search and a
15 preliminary, partial Vaughn index explaining the bases for its withholdings; Plaintiffs have
16 responded with several objections and/or requests for clarification; and the parties have continued
17 to confer to discuss the scope of CBP's search and the propriety of its withholdings. Plaintiffs are
18 not yet prepared to stipulate to the adequacy of CBP's search or the propriety of its withholdings;
19 however, further negotiation may eliminate the need for judicial resolution of these issues. Since
20 the last status report, CBP has provided Plaintiffs with a supplemental preliminary, partial Vaughn
21 index explaining the bases for its withholdings of portions of additional documents released in late
22 January 2011 following quality control checks, and the parties remain in communication regarding
23 a possible solution concerning the small number of documents still in dispute. Most recently,
24 Plaintiffs extended a counterproposal to CBP, which is under active consideration, and to which
25 CBP has agreed to respond by April 5, 2011; and

26 WHEREAS it would minimize litigation costs and conserve judicial resources to stay
27 further proceedings in this case to permit the above-mentioned negotiations to continue, and to
28 permit the parties to confer further as described above;

1 IT IS HEREBY AGREED AND STIPULATED by and between the parties, through
2 undersigned counsel, subject to the approval of the Court, that:

- 3 1. Further proceedings in this case are stayed for a period of approximately 2 months
4 through and including May 31, 2011, and
- 5 2. No later than May 31, 2011, the parties shall submit a joint report advising the Court
6 on the status of the above-mentioned negotiations and/or a stipulation proposing a
7 schedule to govern further proceedings.

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1 Dated: March 31, 2011

2 Respectfully submitted,

3 /s/ Dominique-Chantale Alepin
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Attorneys for Defendants

19 **SIGNATURE ATTESTATION**

20 In accordance with General Order 45(X), I hereby attest that I have obtained
21 Eric B. Beckenhauer's concurrence in the filing of this document.

22 /s/ Dominique-Chantale Alepin
DOMINIQUE-CHANTALE ALEPIN

23
24 **[PROPOSED] ORDER**

25 Pursuant to stipulation, **IT IS SO ORDERED.**

26
27 Dated: 4/4/11

28 
RICHARD SEEBORG
United States District Judge